

How RFK and third party candidates will impact the '24 race

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Festa: Welcome to On Ballotpedia, where we connect people to politics by providing neutral, nonpartisan, and reliable information on our government, how it works, and where it's headed. I'm Frank Festa, and thanks for being with us. We haven't really heard that much about third-party candidates for the presidency these last few weeks with everything else going on in the race.

Who are they? What sort of impact might they have? And what sort of laws and tactics factor into how competitive they can be actually in this year's race? Today I'm joined by Barry Burden, a professor of American politics at the University of Wisconsin Madison, who specializes in elections, political parties, and minor party and independent candidates.

Barry, thanks for coming on the show!

Burden: Glad to be here. Thanks, Frank.

Festa: Now to start, could you give us a quick bio on the most prominent third-party candidates, the political party they're affiliated with, and their current standing in the race?

Burden: Well, they're not getting much attention, but there are several candidates running besides the Democrats and Republicans.

The most visible of them has to be Robert F. Kennedy Jr. Famous family in American politics. He's Bobby Kennedy's son. He was once affiliated with the Democrats and sought the nomination of that party, but has since decided to go independent. He's selected a running mate and is working as hard as he can to get ballot access and attention this year.

He's polling far better than the other non-major party candidates. Recent polls have him at somewhere around 7, 8, 9 percent of the vote, which is better than non-major parties typically are doing in July and August in a presidential election year. Uh, and then we've got a slate of a few others, uh, Cornel West, who's a

college professor and activist, formerly affiliated with Bernie Sanders, has now decided to go his own way, he formed his own party at one point, is now running as an independent, also has a running mate.

Uh, Jill Stein is another familiar face who's run now for president, uh, I think three times. She's likely to be the Green Party candidate. And has run on behalf of the Greens before and then a kind of new interesting face is a guy named Chase Oliver who Barely won the nomination of the libertarian party. He actually ran for US Senate in Georgia as a libertarian and got a couple percentage points. And that was enough to force one of those Georgia senate races to go to a runoff on January 5th 2021 and decided the outcome of the senate so he was sort of a a player in that result and has now worked his way into the leadership of the National Libertarian Party.

Festa: Much of the polling and commentary before Trump's assassination attempt and Biden stepping out of the race didn't include the context of these two history shattering events. Pretty crazy time we're living through right now, but how has all of that affected your perspective on both the viability of these third party candidates and how the support might factor into the turnout for both Trump and whoever the Democratic candidate winds up being, whether it's Kamala Harris or someone else.

Burden: Yeah, I think two things have happened in these last couple of weeks to these non-major party candidates. One is they've gotten completely squeezed out of all news coverage.

There is simply no room for reporters to give them any space when they're covering assassination attempts, national conventions, a president bowing out of his reelection bid. This kind of historic events that are so important to the campaign has taken, you know, all of the resources of newspapers, TV outlets, and other media to focus on.

So they've really given very little attention to Kennedy and the rest of them the last few weeks. And I think that's going to continue right through the Olympics, the Republican, the Democratic Convention, and, uh, you know, getting into the general this fall. So that's one factor. It's just, you know, the competition for space is so intense that these other candidates are really struggling to get attention.

Uh, the other thing that's happened is that Kamala Harris has become the presumptive nominee of the Democratic Party. And at least for these first couple of days coming out of that, she's really rejuvenated Democrats and given them some hope after they were, you know, really in the dumps after the debate in late June.

And it matters for these non-major party candidates because the strongest supporters of third-party candidates are young people. They always are, regardless of whether it's a lefty candidate, a righty, somebody in the middle, or a kind of mixture. It's young people who are most interested in looking for an option besides the major parties, and they're least attached to either of the major parties so that's consequential for the democrats because Biden was struggling with young voters. And he needs them. They're a core block in the democratic party. So part of his weakness against Trump was he wasn't doing so well with young people. But Harris seems, as a younger candidate, seems to have reinvigorated and re-interested some of those young people. So I think for the moment at least some of the young voters who were toying with Jill Stein, Robert Kennedy, someone else are probably reinterested in the Democratic ticket.

We'll, we'll see what happens as she picks a running mate and everything else, but I think both of those things, the kind of tight news space that's available and the appeal to young voters has really hurt these non-major party candidates the last couple of weeks.

Burden: And these last couple of days, we're recording this episode on Wednesday, July 24th, there's been a whole bunch of polling that has been released. Most are showing Trump and likely nominee Harris within a few points of each other in one direction or another. And as you mentioned, RFK is certainly the

candidate that has received the most coverage, the most attention, and the most support up until now at this point in the race.

Back in April, he was polling as high as 16 percent according to U. S. News and World Report. Again, in these last few days, we've seen him around 7, 8, 9 percent like you mentioned in the high single digits. Say a little bit more about the desire for these third-party candidates. I know you just mentioned that it's mostly young folks that are turning to these alternatives, but is it more than that this year?

Burden: Well, so a couple of things. One is this pattern you've mentioned, uh, Kennedy starting out in the teens and now he's slid down to the low single digits, he's likely to continue sliding, that is the historic pattern. Whether 92, where it was Ralph Nader and his runs. Go back to John Anderson, who was an independent in 1980.

The very consistent pattern for all of these candidates is to start high. As people are kind of entertaining ideas, they're willing to just sort of gamble or have at least a serious look at a non-major party candidate. But then as things get real in the midst of the fall campaign, voters tend to back away, especially in swing states where they realize their votes could potentially swing the result to a candidate.

They like even less if they go, you know for a so-called spoiler candidate so that pattern is likely to continue. And yet in surveys when people are asked “do you think there should be more than two viable parties in the United States?” huge majorities of Republicans, Democrats and independents say? “Of course, we would like to have more choices.” This feels like an American thing.

We like to have lots of choices of cereal at the grocery store or lots of programs to watch on television. Or, you know, just options are part of the American ethos. And so it seems strange and it's very strange compared to other democracies around the world to have just two serious competitors in every race in the United States, essentially.

So voters are, are, you know, I don't know, the demanding is probably a strong word, but really interested and supportive of their being multi-party. Competition. And yet when it comes down to it, the system, the laws, the culture, the stakes, all of that really drives people into these two major parties, overwhelmingly.

Festa: It in the U S choice is everything. You should see how long it takes me to pick a show on Netflix. Sometimes I just watch the trailers and don't actually get to any of the actual episodes or anything, but you mentioned Ross Perot. And I want to come back to that in just a moment in terms of two-party systems.

America is a little bit of an anomaly, isn't it? That's not the case in much of the democratic world, at least, where you have two parties that are dominating every aspect.

Burden: Yeah, that's right. Even when looking at countries we think are similar to the U. S. in culture and in their election system. For example, the U.K. recently had parliamentary elections. They have a new, uh, labor party majority there. It was big news. They also run in constituencies and districts, the way our members of Congress and senators do. Uh, but four parties there got more than 10 percent of the vote. And the new labor government only got about a third of the vote.

So it's it's now a multi-party system I would say even though it's a mostly English-speaking, constituency-based election system. Uh Canada our neighbor to the north not quite as divided as the UK but still there are two bigger parties and a couple of formidable smaller parties and then some other lesser ones that also win seats in the legislature. And there's almost no one in the US Congress who's not a Republican or Democrat on any given day. And if you move to other countries in Europe or Latin America, there are sometimes 40 political parties that are competing. So the U. S. is remarkable in how dominant the two-party duopoly is and how long it has lasted. It has been at least a century of really no other serious competitors at any level of government.

Festa: Yeah. And at the presidential level in the modern era, the last serious competitor was probably Ross Perot in 1992. He received, if I have it right, 19 percent or just about of the popular vote as an independent candidate. Do you see any parallels between the forces that led to Perot's rise in the early 90s and now?

Importantly, how did the two major parties react to his building momentum?

Burden: Well, he put a scare in the major parties. People may not remember, this is a while ago now, but he was leading in the polls ahead of George Bush, who was the sitting president, and ahead of Bill Clinton, who eventually won. Uh, he was getting 35 or 40 percent of the vote in national polls, and that was likely to decline because people do tend to back away from, from these parties as elections get closer. But then he bailed out of the race voluntarily in the middle of the Democratic convention that summer. Uh, and then re-entered in October. And so, despite that kind of flaky behavior, managed to get one out of every five votes. And so we can only imagine how much better he would have done had he stayed in the race.

He was actually in the presidential debates that fall, as was his running mate. Really unusual. Um, so he had some things working for him that you might think would work for candidates this year. He was independently wealthy, and used his own money to fund the project of getting on the ballot in 50 states.

And to fund his campaign, he bought national advertising that he could pay for out of his own pocket. So having a wealthy candidate, Robert Kennedy has a running mate who's wealthy and has been injecting funds into their campaign, so there's something happening there. There was also a lot of economic discontent. In 92, the U.S. had just come out of a recession in 91. That was part of what drove the Clinton campaign to success. We are not in a recession today, but many people are unhappy with the state of inflation, and the job market, and salaries, and a whole range of things. So there's that kind of, historically, economic unrest tends to work to the advantage of outsider candidates.

So you might expect something like that this year. But there are also some things that were very different in 92. The parties, the major parties, were not as polarized as they are today. So it was possible to be, say, pro-choice and a Republican or pro-life and be a Democrat, which is really not common today.

The parties were just not as far apart or as aggressive towards one another as they are today. So it was easier, I think, for voters to kind of imagine toying with a non-major party candidate. Um, today the parties are, are so far apart and so hostile towards one another. The stakes feel so great for voters that I think although people want more options and they will say in polls they're thinking about a non-major party candidate, when push comes to shove in the fall, lots of people retreat and, you know, just to protect against the worst possible outcome in their mind of some other party winning will often, you know, end up inside more of the major parties again.

Festa: Yeah. And I feel like that it's such a common thing to hear when we talk about, you know, third party voting on election day, when you get to the ballot.

When you look at the polling for your state, whatever it might be, and you see, you know, a really tight race between these two major party candidates, your vote for the third party might look at that and say, “Oh, it might actually not contribute anything.” It might kind of be “wasted” if I'm not contributing to one of these two major tents.

And by doing so, maybe the person that I support less than the other gets in and that might weigh on my conscious. I think that's a really common experience that you hear about for voters. But if we look back into history even longer ago, this was no utopia at this point in time about a hundred years ago, but there were a lot more political parties in the mix in the United States. Right. And I think that history is really important how we got from there to now in terms of how effective third-party candidates can actually be and how we wound up with this two-party dominant system we have today. Can you give us a little bit of a history lesson?

What were some of the tactics that were used in that very long timeframe to whittle away at the influence of third-party and independent candidates?

Burden: Yeah. So we're thinking about the period in the say 1870s, 1880s, 1890s, last half of the 19th century. This is after the civil war. After the two major parties had been established by the civil war, both Republicans and Democrats existed that they have the same names they have today, but there were also socialists and anti-immigrant parties and progressives and populists and they were getting votes on their own or working with the major parties.

They were winning some seats. They were cross-nominating candidates for president. It's a very vibrant multiparty system happening across the country and very regionalized some parts of the country had strong third-party movements And they were different than what was happening in other parts of the country, so I think a few things happen to make all of that go away. One is there were some reforms to how elections are run in the US. That really worked to the advantage of the two major parties. So there were a series of progressive reforms implemented in the late 1800s, early 1900s, that included things like the secret ballot. Well, as soon as the secret ballot was created, then the state was responsible for making ballots. And they had to, the government, had to decide who gets on and who doesn't. Who gets a space on the ballot?

Festa: And really quickly, if you don't mind, what is the secret ballot, if people aren't familiar with what you're referencing there?

Burden: Yeah, the secret ballot, sometimes called the Australian ballot, is a ballot that's made by government. So your state or your county produces a piece of paper or today maybe a computer screen that lists the options that are available and voters have to request it.

They have to become registered and they have to request the ballot from the state to vote. Before this time, ballots were made by parties. They were just unofficial strips of paper, sometimes printed in the newspaper, a person could tear it out of

the paper, and it would be a ticket or a strip, which is why we call these often presidential tickets or those kinds of things, and those strips would be deposited in a box in public view so there was no secrecy. And that worked for parties, it helped them monitor who was voting for whom, so they could reward or punish people, but it also let basically anybody who could print a ballot be a party. So if you could, if you had a local newspaper or a friend who had a printing press or something else, you could make ballots and be part of the system.

But as soon as the state was responsible for the ballots, then there had to be rules about how to get on the ballot. And those typically involved collecting signatures. So petitioning to get on a ballot. That's what now Kennedy and Cornel West and Jill Stein are working to do to get on the ballot in 50 states or pay a fee or some combination.

So that really squeezed out these kind of smaller party efforts and independent candidates who didn't have those resources. And there were a variety of other things. There were, There used to be a practice known as ballot fusion, where multiple parties would endorse the same candidate on the ballot. So the, maybe the progressives and the republicans would both endorse the same person running for governor. That person would be listed twice on the ballot. And voters would have a choice whether to support that person as a republican or as a progressive. But that too scared the major parties and they passed laws almost in every state to do away with fusion. Uh, there are a variety of other things. There was, there are these laws called sore loser laws that also got implemented around that time. Really started to be, these are laws that prevent a candidate who's running a primary and lost from then showing up in the general election under a different party. So these are, you know, so called sore losers. They're being screened out, but in the 1800s they were permitted. So you might see somebody running on a, in a democratic primary or convention earlier in the year. And then they show up in the fall again as an independent candidate. So it just created more fluidity and allowed candidates to survive even what they weren't winning everywhere. Um, but again, major parties have sort of squelched that by passing these anti-swear loser laws and anti-fusion laws over the decades.

Burden: A lot of interesting history there. We're going to link some of your work in our show notes. If folks want to take a dive and read more, it's really accessible and easy to understand. So much we could talk about there, but let's zoom in on how some of that is going to impact our third party candidates in the '24 race, let's start with getting on the ballot.

You can't be in the election if you're not actually on the ballot. What is that reality looking like this year?

Burden: It is a massive task. It is the hardest thing a non-major party candidate has to do. It's 51 separate sets of rules for the states in DC. Every state has different deadlines for when the signatures can be submitted.

Every state has different rules about who is allowed to sign those petitions. For example, in Texas, somebody who's voted in a major party primary is not allowed to sign the petition to put a non-major party candidate on the ballot. So in Texas, you've got to find registered voters. And they can't have voted in the primary and you have to do it by March, very early in the year. Some states have very high thresholds for how many signatures are required, some require the candidates or parties to get signatures in so many counties or congressional districts. So you can't just go to one city and collect signatures at a festival or you know, some kind of outdoor event. It's very difficult very expensive, it requires lots of lawyers lots of volunteers lots of paid staff and almost no minor party or independent candidate gets on all 50 ballots plus DC and they are confronted by lawsuits and challenges from the major parties who are trying to keep them off. So when Kanye West was trying to get on the ballot in 2020 there were Democratic groups who were trying to stop him from doing that when Ralph Nader was trying to get on the ballot as a green, again, there were Democrats who were kind of threatened by that and trying to stop him. Um, Robert Kennedy is being challenged in states. So, you know, this is a slog that runs from really the winter back in February or March through a couple months from now. It's just spent trying to get on the ballot. And again, most of these candidates won't succeed in getting very far. Um, it's at one point someone had estimated it cost something like a million dollars to get on all the ballots. It's

way more than that now. It's just very expensive, very time consuming and frustrating, and it's hard for a candidate to really do much other than that until that gets settled.

Festa: And another really frustrating element, I'm sure, is the co-opting of messages, platforms, policies, things of that nature.

I would imagine as an independent candidate, maybe you work really hard on an idea or have a platform that you're super proud of and is gaining momentum. And then all of a sudden it's, you know, a primary Republican policy or it's a major Democratic talking point. How is co-opting factoring into this year's election?

Burden: Yeah. So the major parties are watching these small parties and independents really closely. And if it looks like they have tapped into a vein of sentiment, that's really interesting or potent, the major parties would, are going to try to soak up those voters. And so you might consider it a sign of failure, but it could be a sign of success if a major party raises some ideas.

It doesn't win very many votes, but it gets picked up as a platform plank or an idea by one of the major parties. You might say, Hey, that's, you know, if your goal is to change policy, not just to win elections, you've actually been successful in some ways. So a really nice example of this is again, Ross Perot, when he ran for president in 92 got 20 percent of the vote.

Both parties saw their voters who are interested in his message. And Republicans, I think, were most aggressive about moving in quickly and picking up his ideas. So he had campaigned on things like a balanced budget amendment, and term limits, and opposition to some trade agreements, um, those kinds of things, and those got worked into the Republican campaign just two years later.

In the 94 midterm elections, Republicans put out something called the Contract with America, which was a list of promises or things they would work on if elected, and it was not word for word, but very heavy lifting from Perot's

messaging just two years before. And they ended up winning control of Congress for the first time in 40 years in part because of that contract.

So that's a dramatic example, but always I think the major parties are trying to pluck the things that have made minor parties successful and the better the minor party does. The more the major parties went to co-opt those ideas. So it's, it's kind of an ironic kind of success that, you know, doing well means you're more likely to get attention and have ideas stolen from you or, or, or borrowed in some way that's successful.

Festa: In terms of our major independent candidates, what should listeners be looking out for in these last couple of months before the election?

Burden: Kennedy has the most potential. He has the name recognition. He has money. Uh, there was a super pack that ran an ad on his behalf during the Super Bowl that made allusions back to his 1960 campaign.

Um, he's got some issues around vaccines and the environment that have gotten him traction with some, some populations. And there's this interesting dance going on between Kennedy, Trump and the Libertarian party. It's not clear on the surface what these three groups have in common, but they're talking to one another.

Both Kennedy and Trump spoke at the Libertarian Party Convention that ended up nominating Chase Oliver. So neither one of them, uh, Trump and Kennedy had a conversation the first day of the Republican Convention, or as the convention was getting started, about some potential partnership they might have, or maybe, if Kennedy were to, say, endorse Trump, whether he might be rewarded with a cabinet position or something else, they have these kind of entreaties back and forth to one another, uh, maybe something will come of that.

I think that's something to watch. Otherwise, Kennedy is really struggling to get, to get on the ballot, to get attention. There are really no prospects for him getting into the debates if those happen again this fall. He tried back in June and complained

about that and just didn't get any traction. So he, he's the one to pay the most attention to and he's in this funny space where he's you know at least entertaining options that might link him with Trump or with libertarians or continue to run essentially on his own. Cornell West I think is likely to flame out. He's he has no party infrastructure. He has a lot of difficulty raising money, he's on almost no ballots at this time. It's going to be difficult. Um, Jill Stein though is a repeat player and a really familiar face to a lot of progressive voters. And she's linked with the Green Party that has a lot of success getting on the ballot. She also is likely to be appealing to some young Democrats and progressives who are unhappy with the Biden administration's policy on Israel.

She's been much more supportive of the Gaza side of things. And so for vote for progressives who are unhappy with Biden, for that reason, maybe Kamala Harris will be enough of a change that that's not as much a worry. They're not going to go to Trump. Who's even more on the pro-Israel side of things, but Jill Stein might be enticing for that reason.

So I think all three of them, uh, have, have some role to play, but Kennedy is, is the most interesting and fluid one. It seems to be, you know, in multiple places at once.

Festa: Got it. Well, there is lots to look out for there. And I was actually curious, Barry, as somebody who researches this all day, and this is the lifeblood of what you do, is there any sort of consensus in the academic community on what the future could look like here in the States? Are we going to be stuck with this two-party system forever, or is there a possibility that minor parties and independent candidates can really start to make some noise and win some elections?

Burden: The system is pretty locked into a two-party system. And this comes from an old idea from a political scientist back in the 1950s. His name was Maurice Duverger. And Duverger noticed that in countries that had election systems like ours, where there are districts that elect one person at a time to go serve in office, those systems tend to result in two parties, two competitive parties.

So the presidency is sort of a funny version of that because of the electoral college, but it's essentially choosing one winner in each state, governors, senators, members of Congress, state legislators, mostly chosen from single districts. But in systems that used proportional systems where voters vote for a party on a list or something different from the single member system, they tend to have multiple parties.

So places like Israel or the Netherlands can have 10 or 15 parties represented in the parliament in part because of the system. So that system is not likely to change anytime soon and that has a very strong bias towards two parties. And then these other things I mentioned, the signature requirements, the anti-fusion laws, the anti-sore loser laws, all of those are real hurdles to non-major parties getting in. Now, I think there are, there's definitely interest in the American public to having more options. Uh, I think social media and kind of the, the, the breakup of the traditional media monopolies or the uniformity of the media system maybe gives third parties some ways to communicate with voters that are free or, you know, more accessible to them.

So it kind of lowers the barriers to entry. Uh, there are some other changes in election laws that are being talked about that might be helpful. Ranked choice voting might be one that's now being used in Maine and Alaska to choose presidential electors. Uh, there's some other, other things on the horizon, maybe bringing back infusion that might be helpful.

Um, but I think those are mostly changes on the margins and we're likely to be a strongly two-party system for the foreseeable future.

Festa: Barry, this has been great. Really appreciate your time and all of your insights here, as well as some of the history. And back story of how we wound up with this two party system.

Thank you again for coming on the show. We really appreciate it.

Burden: Yeah. Glad to be here. Thanks.

Festa: And listeners, you can find more of Barry's work at the link in our show notes, as well as some more of our coverage of both independent parties and the presidential race. We'll be back next week with another episode.

Make sure you subscribe to On the Ballot wherever you listen to podcasts. I'm Frank Festa and thanks for listening. We'll see you next week.